

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

BANK OF AMERICA, N.A.,

Plaintiff,

vs.

No. CIV 14-0319 JB/KBM

LAURENCE LISA LEBRETON; MORTGAGE
ELECTRONIC REGISTRATION SYSTEM,
INC., as Nominee for America's Wholesale
Lender; and FNU LNU, Unknown Tenant (Real
Name Unknown),

Defendants.

ORDER¹

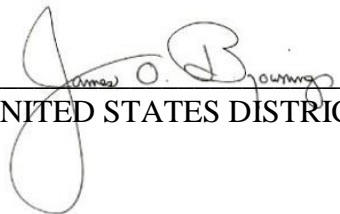
THIS MATTER comes before the Court on the Verified Motion to Strike Defendants Motion to Dismiss Pursuant to NMRA 1-012(A) and Fed. R. Civ. P. 12(b)(6) with Memorandum of Objection, filed July 11, 2014 (Doc. 26)(“Motion”). The Court held a hearing on March 18, 2015. For the reasons stated at the hearing,² the Court will deny the Motion.

¹This Order disposes of the Verified Motion to Strike Defendants Motion to Dismiss Pursuant to NMRA 1-012(A) and Fed. R. Civ. P. 12(b)(6) with Memorandum of Objection, filed July 11, 2014 (Doc. 26). The Court may, however, at a later date issue a memorandum opinion more fully explaining the rationale for its decision.

²The Motion appears to be another attempt to respond to or attack the Defendant's Motion to Dismiss Pursuant to NMRA 1-012(A) and Fed. R. Civ. P. 12(b)(6), filed April 25, 2014 (Doc. 4)(“MTD”), which Plaintiff Bank of America, N.A. filed and which the Court granted. Motions to strike under rule 12(f) of the Federal Rules of Civil Procedure are properly directed at pleadings -- the specific documents enumerated in rule 7(a) -- and not at motions.

When the Court granted the MTD, however, it dismissed Lebreton's counterclaim without prejudice. She is therefore free to move the Court for leave to amend her Answer, No. D-101-CV-2012-00267 (N.M. Dist. Ct. July 18, 2012), to assert any counterclaims she might have.

IT IS ORDERED that the requests in the Verified Motion to Strike Defendants Motion to Dismiss Pursuant to NMRA 1-012(A) and Fed. R. Civ. P. 12(b)(6) with Memorandum of Objection, filed July 11, 2014 (Doc. 26), are denied.


UNITED STATES DISTRICT JUDGE

Counsel and party:

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--and--

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--and--

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